

HOUSE BILL 278

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By: **Delegate Hubbard**

Introduced and read first time: January 26, 2010

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Medical Eligibility for Nursing**
3 **Facility Level of Care**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to
5 determine that certain individuals are medically eligible for certain services
6 under certain circumstances; requiring the Department to allow individuals to
7 submit certain information under certain circumstances; defining certain terms;
8 and generally relating to medical eligibility for nursing facility level of care
9 under the Maryland Medical Assistance Program.

10 BY repealing and reenacting, without amendments,
11 Article – Health – General
12 Section 1–101(a) and (c) and 15–101(a) and (h)
13 Annotated Code of Maryland
14 (2009 Replacement Volume)

15 BY adding to
16 Article – Health – General
17 Section 15–146
18 Annotated Code of Maryland
19 (2009 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Health – General**

23 1–101.

24 (a) In this article the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) "Department" means the Department of Health and Mental Hygiene.

2 15-101.

3 (a) In this title the following words have the meanings indicated.

4 (h) "Program" means the Maryland Medical Assistance Program.

5 **15-146.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) "ACTIVITIES OF DAILY LIVING" MEANS BATHING, DRESSING,
9 MOBILITY, TRANSFER, TOILETING OR CONTINENCE, AND EATING.

10 (3) "HEALTH-RELATED SERVICES ABOVE THE LEVEL OF ROOM
11 AND BOARD" MEANS:

12 (I) CARE OF AN INDIVIDUAL WHO REQUIRES HANDS-ON
13 ASSISTANCE TO PERFORM ADEQUATELY AND SAFELY TWO OR MORE ACTIVITIES
14 OF DAILY LIVING AS A RESULT OF A CURRENT MEDICAL CONDITION OR
15 DISABILITY;

16 (II) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF
17 TWO OR MORE ACTIVITIES OF DAILY LIVING FOR AN INDIVIDUAL:

18 1. WITH COGNITIVE DEFICITS, AS INDICATED BY A
19 SCORE OF 15 OR LESS ON THE FOLSTEIN MINI-MENTAL STATUS EVALUATION
20 OR AN EQUIVALENT DETERMINATION MADE BY A LICENSED PHYSICIAN,
21 PSYCHOLOGIST, OR CERTIFIED SOCIAL WORKER-CLINICAL; AND

22 2. WHO IS IN NEED OF ASSISTANCE WITH AT LEAST
23 THREE INSTRUMENTAL ACTIVITIES OF DAILY LIVING; OR

24 (III) SUPERVISION OF AN INDIVIDUAL'S PERFORMANCE OF
25 TWO OR MORE ACTIVITIES OF DAILY LIVING COMBINED WITH THE NEED FOR
26 SUPERVISION OF OR REDIRECTION FOR AN INDIVIDUAL WHO EXHIBITS AT
27 LEAST TWO OF THE FOLLOWING BEHAVIORAL PROBLEMS:

28 1. WANDERING SEVERAL TIMES A DAY;

29 2. HALLUCINATIONS OR DELUSIONS AT LEAST
30 WEEKLY;

1 **3. AGGRESSIVE OR ABUSIVE BEHAVIOR SEVERAL**
2 **TIMES A WEEK;**

3 **4. DISRUPTIVE OR SOCIALLY INAPPROPRIATE**
4 **BEHAVIOR SEVERAL TIMES A WEEK; OR**

5 **5. SELF-INJURIOUS BEHAVIOR SEVERAL TIMES A**
6 **MONTH.**

7 **(4) “INSTRUMENTAL ACTIVITIES OF DAILY LIVING” MEANS**
8 **COMPLETING GROOMING, PREPARING A LIGHT MEAL, DOING LIGHT CHORES,**
9 **GROCERY SHOPPING, TRAVELING BEYOND A WALKING DISTANCE, HANDLING**
10 **MONEY AND MANAGING FINANCES, USING THE TELEPHONE, AND PLANNING AND**
11 **MAKING DECISIONS.**

12 **(B) (1) THE DEPARTMENT SHALL DETERMINE THAT AN INDIVIDUAL**
13 **IS MEDICALLY ELIGIBLE FOR NURSING FACILITY SERVICES OR FOR A NURSING**
14 **FACILITY LEVEL OF CARE UNDER THE PROGRAM IF THE INDIVIDUAL REQUIRES,**
15 **ON A REGULAR BASIS, HEALTH-RELATED SERVICES ABOVE THE LEVEL OF ROOM**
16 **AND BOARD.**

17 **(2) IF AN INDIVIDUAL DOES NOT DEMONSTRATE THE CLINICAL**
18 **NEED FOR HEALTH-RELATED SERVICES ABOVE THE LEVEL OF ROOM AND**
19 **BOARD ON A REGULAR BASIS, THE DEPARTMENT SHALL PERMIT THE**
20 **INDIVIDUAL TO SUBMIT ADDITIONAL INFORMATION FOR CLINICAL REVIEW TO**
21 **DEMONSTRATE ELIGIBILITY UNDER APPLICABLE FEDERAL OR STATE**
22 **REGULATIONS.**

23 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **July 1, 2010.**